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11 U.S. Bank National Association

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

Indiezone, Inc., a Delaware corporation, and  
EoBuy, Limited an Irish private limited  
company,

*Plaintiffs,*

vs.

Todd Rooke, Joe Rogness, Phil Hazel, Sam  
Ashkar, Holly Oliver and U.S. Bank,  
collectively the ***RICO Defendants;***

Jingit LLC., Jingit Holdings LLC., Jingit  
Financial, Services LLC., Music.Me, LLC.,  
Tony Abena, John E. Fleming, Dan Frawley,  
Dave Moorehouse II, Chris Ohlsen, Justin  
James, Shannon Davis, Chris Karls in their  
capacities as officers, agents and/or employees  
of the Jingit LLC.,  
***Defendants in Negligence, and Aiding/  
Abetting;***

Wal-Mart, General Electric, Target, DOE(s)  
and ROE(s) 1 through 10, ***Defendants in  
Negligence Secondary-Vicarious  
Infringement,***

***Defendants.***

Case No. 3:13-cv-04280

**NOTICE OF MOTION AND MOTION OF  
DEFENDANT U.S. BANK NATIONAL  
ASSOCIATION TO (1) DISMISS  
PLAINTIFF EOBUY, LIMITED AND  
(2) STAY ALL REMAINING  
PROCEEDINGS**

Hon. Yvonne Gonzalez Rogers

Date: February 18, 2014  
Time: 2:00 p.m.  
Place: Courtroom 5

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**NOTICE OF MOTION AND MOTION**

2 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE that on February 18, 2014 at 2:00 p.m. in Courtroom 5 of the  
4 above-referenced Court, which is located at 1301 Clay Street, Oakland, California, before the  
5 Honorable Yvonne Gonzalez Rogers, Judge of the United States District Court for the District of  
6 Northern California, Defendant U.S. Bank National Association (“U.S. Bank”) will and hereby  
7 does move the Court for an order:

8 1. Dismissing eoBuy, Limited pursuant to Federal Rules of Civil Procedure 17(b)(2) and  
9 12(b)(6), on the grounds that eoBUy, Limited is a defunct Irish corporation with no capacity to  
10 sue; and

11 2. Staying this action pursuant to 9 U.S.C. § 3 pending arbitration, on the grounds that all  
12 claims against all defendants in this action are wholly dependent on Indiezone’s arbitrable claims  
13 that the defendants Rooke and Rogness misappropriated trade secrets or other proprietary  
14 information of plaintiffs.

15 This motion is based on this Notice of Motion and Motion, the accompanying  
16 Memorandum of Points and Authorities, and all papers and pleadings on file in this Action.

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**MEMORANDUM OF POINTS AND AUTHORITIES**

18 U.S. Bank hereby joins, and incorporates by this reference as if fully set forth herein, the  
19 Notice of Motion and Motion, Memorandum of Points and Authorities in Support Thereof,  
20 proposed order, and the arguments and supporting affidavits made thereto, filed by

21 (1) defendants Jingit, LLC, Jingit Holdings, LLC, Jingit Financial Services, LLC, Sam  
22 Ashkar, Phil Hazel, Holly Oliver, Shannon Davis, Justin James, Chris Ohlsen, Dan Frawley,  
23 Dave Moorehouse II, Tony Abena, Chris Karls, John E. Fleming, and Music.Me, LLC (“Stay  
24 Defendants”) and Todd Rooke and Joe Rogness, to dismiss eoBuy, Limited pursuant to Federal  
25 Rules of Civil Prcoedure 17(b)(2) and 12(b)(6), on the grounds that eoBUy Limited is a defunct  
26 Irish corporation with no capacity to sue; and

27 (2) the Stay Defendants to stay the remaining claims against the defendants in this action,  
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1 including U.S. Bank National Association, pending the outcome of the arbitration against  
2 defendants Rooke and Rogness pursuant to 9 U.S.C. § 3, on the grounds that all claims against all  
3 defendants in this action are wholly dependent on Indiezone's arbitrable claims that the  
4 defendants Rooke and Rogness misappropriated trade secrets or other proprietary information of  
5 plaintiffs.

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7 Dated: January 10, 2014

MORRISON & FOERSTER LLP

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9 By: /s/ James R. McGuire  
James R. McGuire

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11 Attorneys for Defendant  
U.S. Bank National Association

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